

# MANDATE

S.D.N.Y. – N.Y.C.  
17-cr-548  
Furman, J.

## United States Court of Appeals FOR THE SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 15<sup>th</sup> day of December, two thousand twenty-two.

Present:

Barrington D. Parker,  
Michael H. Park,  
*Circuit Judges.\**

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
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DATE FILED: Jan 20 2023

United States of America,

*Appellee,*

v.

Joshua Adam Schulte,

21-3113 (L), 21-3116 (Con),  
21-3117 (Con), 21-3118 (Con),  
21-3120 (Con), 21-3122 (Con),  
21-3124 (Con), 21-3125 (Con)

*Defendant-Appellant.*

The Government moves to dismiss the appeal docketed under 21-3118 for lack of jurisdiction because it challenges a nonfinal order. The Government moves to dismiss the appeal docketed under 21-3124 as frivolous or for summary affirmance.<sup>†</sup> Appellant, *pro se*, moves for appointment of counsel. Upon due consideration, it is hereby ORDERED that the Government's motion to dismiss in 21-3118 is GRANTED; the Court finds that it lacks jurisdiction over this appeal because the challenged order is not a "final decision" of the district court as required under 28 U.S.C. § 1291. *See United States v. Magassouba*, 544 F.3d 387, 399–400 (2d Cir. 2008). It is further ORDERED that the Government's motion in 21-3124 is GRANTED in part insofar as it seeks summary affirmance. *See Illarramendi v. United States*, 906 F.3d 268, 271 (2d Cir. 2018).

\* Chief Judge Livingston has recused herself from consideration of this motion. Pursuant to Second Circuit Internal Operating Procedure E(b), the matter is being decided by the two remaining members of the panel.



<sup>†</sup> The other appeals with which 21-3118 and 21-3124 are consolidated were decided in May 2022. 2d Cir. 21-3113 (L), docs. 175 (Summary Or.) (affirming in 21-3113); 177 (Or.) (dismissing in 21-3116, 21-3117, 21-3120, 21-3122, and 21-3125).

MANDATE ISSUED ON 01/20/2023

It is further ORDERED that the motion for appointment of counsel is DENIED as moot because all these appeals have now been decided.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit